

Every person engaged in the business of selling tangible personal property at retail in this State shall keep records and books of all sales and purchases of tangible personal property. See 86 Ill. Adm. Code 130.801. (This is a GIL.)

December 31, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter dated July 13, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We are writing to address our concerns regarding the lack of guidance contained in the current sales and use tax statutes and regulations relating to electronic commerce. We are about to launch a new form of business which utilizes an internet web site to provide product and company information as well as to accept customer orders relating to one segment of our business. We realize that this is a relatively new area for tax administrators and taxpayers alike. Therefore, we are seeking your input regarding our planned approach to discharge our sales tax obligations.

We are a supplier of machine tools, plastics processing machines, industrial consumable products and related supplies and services. We have a diverse customer base which includes both manufacturers and wholesalers. Many of our customers enjoy an exemption from sales tax on our products because they are either purchased for resale or are used in the manufacturing process.

Our current compliance process is typical of most taxpayers in that we solicit sales, accept orders and ship products based on customer requests. During this process we request exemption certificates where applicable. Upon receipt of an acceptable certificate, we ship the product and do not bill sales tax. Otherwise, tax is charged.

Our sales via the Internet web site will not afford us the same opportunities. We will not be able to obtain the same paper documents that we receive in our current process. The intent of this new delivery system is to expand our customer base while shortening shipment time. In order to provide this on-line service to our

customers and comply with Illinois state sales tax regulations, we will need to accept 'electronic' exemption certificates.

These certificates will contain all of the elements of the exemption certificate currently prescribed by your statutes/regulations. The signature will be electronic as our customer will be required to click on an electronic signature box in order to make a tax exempt purchase. Each customer will have a distinct Internet ID which will uniquely identify that customer.

We have been unable to find any guidance with the current statute or regulations that would prohibit collecting sales tax exemption certificates in this manner. Therefore, we request your cooperation and your opinion regarding our stated intentions and procedures. It is our intent to implement the above referenced system using these electronic certificates by the 4th quarter of 1998. If you believe that this system will not fulfill our requirements please contact me at ####.

When Illinois retailers make sales of tangible personal property, they must either collect and remit sales tax or document an exemption. Section 130.801(a) provides, in part, that "[e]very person engaged in the business of selling tangible personal property at retail in this State shall keep records and books of all sales and purchases of tangible personal property." See 86 Ill. Adm. Code 130.801, enclosed. In addition, Section 130.805(d)(1) provides, in part, that "[e]xcept as otherwise provided, the provisions of this Section do not relieve taxpayers of the responsibility to retain hard-copy records that are created or received in the ordinary course of business as required by existing laws and regulations." See the enclosed copy of 86 Ill. Adm. Code 130.805.

Illinois statutory law does not authorize taxpayers to provide electronically produced signatures. Please note that the taxpayer has the burden of providing sufficient documentation to properly establish an exemption.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk
Enc.